IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 3169 of 2005(B)

PETITIONER:

VIPINACHANDRAN K.M., AGED 48 YEARS,
S/O. LATE MOHANAN, MOHAN NIVAS, ANJUMANA,
EDAPPALLY POST, KOCHI-682 024 (WORKING AS
ASSISTANT STORE KEEPER (SELECTION GRADE, KSRTC,
KOTTARAKKARA).

BY ADV. SRI.T.M.RAMAN KARTHA.

RESPONDENTS:
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1. **KERALA STATE ROAD TRANSPORT CORPORATION,**
   (KSRTC) CHIEF OFFICE AT TRANSPORT BHAVAN,
   FORT P.O., THIRUVANANTHAPURAM, REPRESENTED
   BY ITS MANAGING DIRECTOR.

2. **THE ASSISTANT TRANSPORT OFFICER,**
   KERALA STATE ROAD TRANSPORT CORPORATION,
   KOTTARAKKARA.

BY SRI. JOHNSON P. JOHN, SC, KSRTC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.3169/2005-B:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE CHARGE REPORT DTD. 09/09/1998.

EXT.P.2: COPY OF THE MEMO NO. SVI 030296/01 ISSUED BY THE R.1. DTD. 30/11/04.

EXT.P3.: COPY OF THE MEMORANDUM NO. CS1-9523/75 DT. 21/11/1975 ISSUED BY ASST. CONTROLLER (S AND IC).

EXT.P.3.A: COPY OF THE MEMORANDUM NO. CS1-9523/75/DT. 23/12/1975 ISSUED BY THE ASST. CONTROLLER (S AND IC) KSRTC.

EXT.P.4: COPY OF THE SHOW CAUSE NOTICE NO. SV1-014514/02 DT. 02/09/2003 ISSUED BY DY. CHIEF ACCOUNTS OFFICER IN RESPECT OF PSV REPORT NO. 4/02.

EXT.P.5: COPY OF THE REPRESENTATION DT. 18/01/05 SUBMITTED BY THE PETITIONER TO THE R.1.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

Writ Petition (C) No.3169 of 2005-B

Judgment

The petitioner is an Assistant Store keeper in the KSRTC. By Ext.P2 proceedings, he has been held liable for an amount of Rs.27,925/-. While he was in charge of the Store, lubricants and spares worth the said amount were found short. Therefore, after issuing notice to him and considering his representation, Ext.P2 was passed. For the entire shortage, the petitioner alone was made liable. According to him, in the light of Ext.P3 circular dated 21.11.1975 and Ext.P3(a) circular dated 29.12.1975, the other staff members working in the Store are also responsible for the loss. Special reference was made to para 15 of Ext.P3 circular, which reads as follows :

> *"The Store Issuers and Store Attenders will be jointly responsible for posting or filing the copy of issue notes received duly acknowledged. Instances of non-receipt of acknowledged copies of issue notes within a reasonable period must be reported to the Assistant Store Keeper concerned, who in turn, will pursue the matter within the units concerned. They will also be jointly responsible for any irregularities noticed in their Stores unless otherwise proved to be the fault of a particular individual."*

The petitioner also relied on the opening para in Ext.P3(a), which reads as follows :

> *"In continuation of this office memorandum of even No.dated 21.11.85, the undersigned desires to impress upon every Store staff that stores represent money worth and materials have to be accounted for as carefully and scrupulously as cash or larger losses may result, which would finally be detrimental to their own interest. It is regrettable to note that there is a strong feeling among the Store Issuers and Store Attenders that they are not at all responsible for the working of the Stores or for any irregularities, excesses and shortages found in their Stores and that the Asst. Store Keeper in-charge is solely responsible for every thing. This feeling indeed culminated from their mistaken notion is totally incorrect. According to the nature of working of our Stores, its function is a joint venture of the Asst. Store Keeper, Store Issuer and Store Attender, posted in a Store or a Section and the responsibility is joint since it could not be fixed individually like a water light compartment."*

In the light of the above clauses in the circulars, the petitioner submits, the other staff members working in the Store may also be made liable and his liability may be reduced correspondingly. Claiming this relief, he has filed

Ext.P5 representation before the Managing Director of the KSRTC and thereafter, this Writ Petition is filed, seeking appropriate reliefs.

2. Heard the learned Standing Counsel for the KSRTC also. Having regard to the facts of the case, the 1st respondent is directed to consider and pass appropriate orders on Ext.P5 in accordance with law, if the same is received and pending, after affording an opportunity of being heard to the petitioner within two months from the date of receipt of a copy of this Judgment. If it is proposed to make others also liable for the aforementioned amount, needless to say, they shall also be given an opportunity of being heard before any adverse order is passed against them. If the petitioner produces a copy of this Judgment before the 1st respondent within one month from today, the interim order granted by this Court will remain in force till the 1st respondent takes a decision as directed above.

The Writ Petition is disposed of as above.

10.12.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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